IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 764 OF 2007

M/s. Sonpankhi Shares & Securities Pvt. Ltd.] .. Petitioner

Versus

1. The Bombay Stock Exchange & 3 ors.] .. Respondents

Mr. Vipin Kamdi i/b R.R. Mishra for the petitioner.

Mr. P.N. Modi with Mr. Sagar Divekar i/b Wadia Ghandy & Co. for the respondent No.1.

CORAM: S.B. MHASE &
D.G. KARNIK, JJ.

DATED: 13TH AUGUST, 2007

P.C. :

1. Heard learned counsel for the parties.

2. By this Petition the petitioner, who is a Member of the Bombay Stock Exchange, seeks annulment of the settlements W2001047 to W2001051 dated 3rd March, 2001 to 6th March, 2001.

3. We decline to entertain the Petition for the following reasons:

. (i) The transactions in question relating to

purchase of equity shares of Cyberspace (the respondent No.4) were made by the petitioner between 3rd March, 2001 to 6th March, 2001. The present Petition has been filed after six years. Financial transactions have taken place and money have exchanged hands. In the circumstances, it would be inappropriate to entertain the Petition after such a long lapse of time.

. (ii) According to the petitioner, there was a large scale fraud in the dealings of shares of respondent No.4-Company. The petitioner, thereafter, applied to the respondent No.1 for annulment of the transactions in question by a letter dated 20th August, 2002 (Exhibit-AG to the Petition). Respondent No.1, the Bombay Stock Exchange, in its meeting held on 11th February, 2003, decided not to annul the transactions. The petitioner, being a stock broker regularly dealing in the shares and a member of the Stock Exchange, must be aware of the said decision. In any event, the petitioner has not pleaded that he was not aware of the decision. Despite this, he did not challenge the said decision till the year 2007. Assuming however, that the petitioner was not aware of the decision he atleast became aware of it by the letter of the Stock Exchange dated 12th June, 2006. The present Petition has been filed in February, 2007 i.e. after a lapse of more than

six months even after the knowledge that the settlements would not be annulled. The petition does not disclose any reason for the delay, which in our view is inordinate, in filing the Petition.

. (iii) The petitioner had an alternate efficacious remedy of challenging the decision of the respondent No.1 in an appeal. Section 23(l) of the Securities Contracts (Regulation) Act, 1956 provides that any person aggrieved by an order or decision of the recognised Stock Exchange shall have a right of appeal before the Securities Appellate Tribunal. It appears that the petitioner has not followed the said remedy and allowed the appeal to be barred by limitation.

4. In the circumstances the Petition is dismissed summarily.

Sd/-
[D.G. KARNIK, J.]

Sd/-
[S.B. MHASE, J.]